

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FRANCIS HENRY RUGGIERO,
Plaintiff,

v.

COUNTY OF ORANGE; ORANGE COUNTY
CORRECTIONAL FACILITY; ORANGE
COUNTY SHERIFF'S OFFICE; CARL E.
DUBOIS AS ORANGE COUNTY SHERIFF;
CORRECTIONAL OFFICER J. CAPPELLI
(Shield number 362), CORRECTIONAL
OFFICER B. SOTELO (Shield number 345),
CORRECTIONAL OFFICER D. CAPPELLI
(Shield number 522), SGT. K. LYONS (Shield
number 107), and CORRECTIONAL OFFICER
WARREN (Shield number 361), individually
and in their official capacities as Orange County
Correctional Officers; WELLPATH A/K/A
NEW YORK CORRECT CARE SOLUTIONS
MEDICAL SERVICES, P.C.; and JANE DOE,
THE NAME BEING FICTITIOUS, THE
PERSONS INTENDED BEING THE HEAD
NURSE ON DUTY ON AUGUST 8, 2019 and
AUGUST 9, 2019,
Defendants.

**PARTIAL ORDER OF
DISMISSAL**

20 CV 7693 (VB)

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On September 18, 2020, this case was removed to this Court. (Doc. #1).

According to the amended notice of removal, defendants County of Orange, Orange County Correctional Facility, Orange County Sheriff's Office, Carl E. DuBois as Orange County Sheriff, Correctional Officer J. Cappelli, Correctional Officer B. Sotelo, Correctional Officer D. Cappelli, Sgt. K. Lyons, and Correctional Officer Warren (the "County Defendants") received the verified complaint on August 19, 2020. (Doc. #9).

However, there is no indication on the docket that defendant Wellpath, a/k/a New York Correct Care Solutions Medical Services, P.C. ("Wellpath"), has been served according to state or federal law. See 28 U.S.C. § 1448. Read in conjunction with Section 1448, Fed. R. Civ. P. 4(m) required that Wellpath be served within 90 days after removal, in other words, by December 17, 2020.

On December 30, 2020, the Court issued an Order warning plaintiff that this action would be dismissed without prejudice as against Wellpath, pursuant to Fed. R. Civ. P. 4(m), unless, on

or before January 8, 2021, plaintiff either: (i) filed to the ECF docket proof of service, indicating defendant was served on or before December 17, 2020; or (ii) showed good cause in writing for plaintiff's failure to comply with Fed. R. Civ. P. 4(m). (Doc. #32).

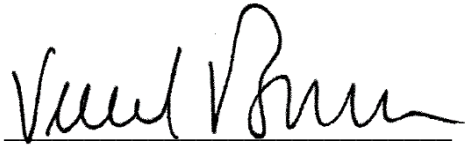
To date, plaintiff has failed to respond to the December 30 Order.

Accordingly, this case is dismissed without prejudice as against defendant Wellpath only, pursuant to Fed. R. Civ. P. 4(m).

The Clerk is instructed to terminate Wellpath, a/k/a New York Correct Care Solutions Medical Services, P.C. from the docket.

Dated: January 13, 2021
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge